

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LULAC, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as
Governor of Texas, *et al.*,

Defendants.

Case No.: EP-21-CV-00259-JES-JVB
[Lead Case]

DECLARATION OF GARRY JONES

Pursuant to 28 U.S.C. § 1746, I, Garry Jones, declare that:

1. I am over the age of 18 and competent to testify.
2. I am the Chief of Staff to State Senator Beverly Powell, who represents Senate District 10 ("SD10"). I have held my position since January 2019.
3. On February 12, 2020, Sen. Powell's Deputy Chief of Staff Rick Svatora and I attended a meeting with two of Sen. Joan Huffman's aides on the Senate Redistricting Committee, Sean Opperman and Amy Befeld. Ms. Befeld has since left her position with the legislature.
4. Ms. Befeld noted that both she and Mr. Opperman were lawyers, but otherwise she did not say much during the meeting. Instead, Mr. Opperman talked for the majority of the meeting.
5. I observed my colleague Rick Svatora take notes during the meeting, writing down what Mr. Opperman was saying to us.
6. At the meeting, Mr. Opperman spoke about the redistricting process and SD10's population and information related to the American Community Survey ("ACS") estimates.

7. On November 19, 2020, Sen. Powell and I met with Sen. Huffman and Mr. Opperman to discuss the redistricting process. We met in the Sam Houston Building on the fourth floor. When Sen. Powell and I arrived, there were maps of SD10 sitting on the table for us.

8. During the November 2020 meeting, Sen. Powell discussed the fact that SD10 had a large minority population, and I recall that either Sen. Huffman or Mr. Opperman acknowledged during the meeting that SD10's population was majority minority.

9. At both the February 2020 meeting and November 2020 meeting with the committee, we were provided oversized maps by the committee. At least two maps provided by the committee contained the benchmark configuration of the district with a box displaying 2014-2018 ACS racial demographic data for SD10. Attached as Exhibit A to my declaration are true and correct photographs of the maps provided by the committee.

10. On August 19, 2021, Mr. Opperman sent an email announcing that the Senate Redistricting Committee had a Dropbox folder containing, among other things, "Maps based on ACS estimates," and "Maps based on the Texas Demographic Center projects." Attached as Exhibit B to my declaration is a true and correct copy of the email I received from Mr. Opperman.

11. Among the maps in the Dropbox folder than Mr. Opperman referenced included one with the benchmark configuration of SD10, along with the 2015-2019 ACS total population and racial demographic estimates for the district, and another that is the same except with 2014-2018 ACS data. Attached as Exhibit C to my declaration are true and correct copies of these maps that I obtained from the Dropbox folder.

12. The Dropbox folder also contains maps with an illustration of the benchmark configuration of SD10, with green shading to show the magnitude of population increases or decreases in senate districts. The map shows the percentage population increase from the 2009-

2013 ACS estimates to the 2015-2019 ACS estimates, as well as the percentage increase for each racial group. The same is shown for the 2014-2018 ACS estimates. Attached as Exhibit D to my declaration are true and correct copies of these maps that I obtained from the Dropbox folder.

13. The Dropbox folder also contained a report from the Texas Demographic Center of projected racial demographic changes for SD10 from 2010 to 2020. Attached as Exhibit N to my declaration is a true and correct copy of this report.

14. On September 14, 2021, Sen. Powell and I attended a meeting with Sen. Huffman and her aides Sean Opperman and Anna Mackin on the fourth floor of the Sam Houston building. Sen. Powell and I arrived early and waited, and when we were called in by Sen. Huffman, there was a map of the newly drawn SD10 projected onto a large screen. The image of SD10 displayed on the screen cleaved the benchmark district's minority populations apart, and added Parker and Johnson Counties instead.

15. Sen. Huffman asked if we wanted to zoom into the map, look at precincts or look at other options to view the map. I requested that roads be turned on and asked the committee staff to zoom into different areas of the map so I could observe the boundaries of the cleaved district.

16. Sen. Powell handed Sen. Huffman a series of maps of benchmark SD10 with racial shading to illustrate to her how the proposed plan cleaved apart SD10's minority communities. These included a map showing the location of SD10's Black community, its Hispanic community, its Asian and Other Race Community, a map of the combined Black and Hispanic community, a map showing all minorities combined, a map of the Anglo community, and a map showing how the minority communities in SD10 supported Sen. Powell.

17. During the floor debate on SB4, Sen. Huffman said that she only "glanced" at the *first* map "for less than a second" and once she "realized it had racial data," she "turned it over flat

and [] said, I will not look at this.” Sen. Huffman did not need to look at the map first to know it showed racial data; Sen. Powell read the header on the map listing the racial data it contained as she handed it to Sen. Huffman. Moreover, Sen. Huffman reviewed the map for longer than “less than a second,” and I do not recall her saying “I will not look at this.” In fact, Sen. Huffman looked at each map as Sen. Powell handed them to her.

18. Sen. Huffman asked that they each initial and date the maps, which they did.

19. Sometime in the middle of the exchange of maps, I recall Ms. Mackin stating that the conversation was making her “uncomfortable.”

20. After Sen. Powell had shown Sen. Huffman all the maps, I asked Ms. Mackin to add the roads layer again to the map on the computer screen and to zoom into Fort Worth and Arlington so I could observe the boundaries in greater detail.

21. Sen. Powell then handed Sen. Huffman excerpts related to SD10 from the 2012 federal court decision that ruled that the 2011 effort to dismantle SD10 was racially discriminatory. Sen. Huffman acknowledged that she was aware of the decision. Shortly after, the meeting ended.

22. On September 16, 2021, we sent a follow up letter from Sen. Powell to Sen. Huffman by email to her aides Mr. Opperman and Ms. Mackin explaining why the plan to dismantle SD10 as a performing crossover district for a coalition of minority voters was unlawful. The letter included maps with circles showing the minority communities that would be cracked apart by the plan, as well as the areas with white crossover voters that the plan would eliminate. In addition to the letter, we attached the maps that we had provided during the meeting, ACS demographic data, a fact sheet about SD10’s demographic characteristics and its performance as a crossover district, and the excerpt from the 2012 federal court decision regarding the 2011 plan.

I sent the email on Sen. Powell's behalf. Attached as Exhibit E to my declaration are true and correct copies of the email, letter, and other attachments I sent to Mr. Opperman and Ms. Mackin.

23. On September 17, 2021, Mr. Opperman responded, saying that he briefly opened the documents but closed them once he noticed they contained racial data. Attached as Exhibit F to my declaration is a true and correct copy of Mr. Opperman's response email.

24. I found Mr. Opperman's email odd, given that the committee had *handed us* maps in prior meetings containing racial data, and had just a month earlier directed Senate staff to review maps on the Senate Redistricting Committee's Dropbox that prominently displayed the racial data for each senate district, along with the percentage increase or decrease in population by race.

25. At 8:59 AM CDT on September 18, 2021, I sent, on Sen. Powell's behalf, an email to all state senators expressing Sen. Powell's concerns about the proposed changes to SD10 that she had been shown just days earlier. The email contained details about the minority populations that the proposal cracked, as well as a map in the body of the email of benchmark SD10 with shading for "all minorities" shown, along with blue circles identifying the minority populations that were cracked apart in the proposal we had been shown. I attached to the email the letter that Sen. Powell had sent to Sen. Huffman on September 16, 2021, along with all the attachments we had sent along with that letter. Attached as Exhibit G to my declaration are true and correct copies of the email; the attachments were the same as those in Exhibit E.

26. Notably, we received a "read receipt" from Sen. Huffman's email account. Attached as Exhibit H to my declaration is a true and correct copy of that read receipt.

27. At 1:19 PM CDT on September 18, 2021, Mr. Opperman emailed all senate offices to announce that Plan S2101, Sen. Huffman's proposed senate redistricting plan, had been released

on the Texas Legislative Council's District Viewer program. Attached as Exhibit I to my declaration is a true and correct copy of the email Mr. Opperman sent.

28. Attached as Exhibit J to my declaration are true and correct copies of written testimony that were provided to the Senate Redistricting Committee during its public hearings on SB4, including testimony from the Brennan Center, a letter from Fort Worth city council members, testimony from the Mexican American Legal Defense Fund, and testimony from Tarrant County resident Pam Durham.

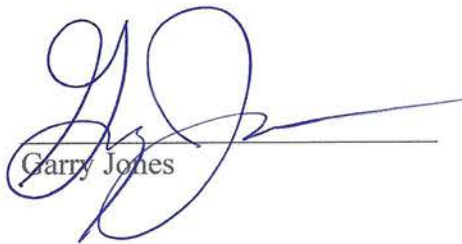
29. On September 30, 2021, I assisted Sen. Powell in uploading the letter than Sen. Powell had sent to Sen. Huffman regarding the dismantling of SD10 to the Senate Redistricting Committee's online portal. Attached as Exhibit K to my declaration is the email confirmation of the upload and the letter that was uploaded.

30. On October 10, 2021, I sent an email on Sen. Powell's behalf to all members of the House Redistricting Committee. The email outlined our concerns that SB4 was racially discriminatory by dismantling a performing crossover district, and included in the body of the email a map showing shading for benchmark SD10's minority population and circles identifying the minority populations that were cracked apart by SB4. I attached to the email a letter from Sen. Powell to the House Redistricting Committee Chair Rep. Todd Hunter and the House Committee members further elaborating on Sen. Powell's concerns, along with the shading maps showing where SD10's minority populations were located, ACS demographic data, a fact sheet regarding SD10, and excerpts from the 2012 federal court decision ruling that the dismantling of SD10 was unlawful intentional race discrimination. Attached as Exhibit L to my declaration are true and correct copies of the email and letter to Rep. Hunter; the maps, federal court order excerpts, and fact sheet were the same as in Exhibit E.

31. On October 14, 2021, I sent an email on Sen. Powell's behalf to all members of the Texas House of Representatives expressing concerns regarding the cracking of minority population in SD10. The body of the email contained the map showing the minority populations in benchmark SD10 with circles showing the minority populations cracked apart in SB4. Attached to the email were the letter Sen. Powell had sent to Rep. Hunter, the racial shading maps of SD10, the fact sheet regarding SD10, ACS demographic information, and excerpts from the 2012 federal court decision regarding SD10. Attached as Exhibit M to my declaration are true and correct copies of the email; the attached letter was the same as that in Exhibit L and the attached maps, federal court order excerpts, and fact sheet where the same as in Exhibit E.

I declare under penalty of perjury that the foregoing is true and correct.

November 23, 2021


Garry Jones